

SECTION 2

Shutdown Furlough Guidance

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A. General

1. What is a furlough?

A furlough is the placing of an technician in a temporary nonduty, nonpay status because of lack of work or funds, or other nondisciplinary reasons.

2. What is a shutdown furlough and why is a shutdown furlough necessary?

In the event that funds are not available through an appropriations lapse or continuing resolution, a "shutdown" furlough occurs. A shutdown furlough is necessary when an State no longer has the necessary funds to operate and must shut down those activities which are not excepted pursuant to the Antideficiency Act.

B. Excepted Technicians

1. Who are "excepted" technicians?

In the context of shutdown furloughs, the term "excepted" is used to refer to technicians who are funded through annual appropriations who are nonetheless excepted from the furlough because they are performing work that, by law, must continue to be performed during a lapse in appropriations. Excepted technicians include technicians who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work. The Adjutant General is responsible for identifying those technicians considered "excepted" from a shutdown furlough.

2. Who are "exempt" technicians?

Technicians are "exempt" from furlough if they are not affected by a lapse in appropriations. This includes technicians who are not funded by annually appropriated funds. Technicians performing those functions will generally continue to be governed by the normal pay, leave, and other civil service rules.

3. What about technicians who are neither "excepted" nor "exempt"?

Technicians who are funded through annual appropriations but are not designated as excepted are barred from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of State operations related to non-excepted activities. These technicians will be furloughed.

4. How will technicians be notified whether they have been designated to be handling "excepted" or not?

Each Human Resources Office (HRO) will coordinate the method and timing to notify a technician as to whether or not he or she is affected by a shutdown furlough. (See Sample Notices located at the end of this document and also refer to the Labor Management Relations Implications questions and answers).

C. Working during Furlough

1. May a technician volunteer to do his or her job on a nonpay basis during a shutdown furlough?

No. Unless otherwise authorized by law, the National Guard may not accept the voluntary services of an technician. (See 31 U.S.C. 1342.)

2. What happens to technicians scheduled for training during a shutdown furlough?

Technicians who are neither excepted nor exempt and are scheduled for training during a shutdown furlough must be placed in a furlough status and ordered not to attend the scheduled training.

3. May technicians take other jobs while on furlough?

While on furlough, a technician remains an employee of the Federal Government. Therefore, executive branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed (specifically, the executive branch-wide standards of ethical conduct (the standards), at 5 CFR part 2635). In addition, there are specific statutes which prohibit certain outside activities, and State-specific supplemental rules that require prior approval of, and sometimes prohibit, outside employment. Therefore, before engaging in outside employment, technicians should review these regulations and then consult their State ethics official to learn if there are any State-specific supplemental rules governing the technician.

4. If a technician receives a temporary appointment in another State while furloughed, what happens to his/her benefits (e.g., retirement, health benefits, life insurance, leave)?

Retirement, health benefits, and life insurance are handled as if the technician had actually transferred to the new State. Leave balances are transferred as if the technician had actually transferred. (See Comptroller General opinion B-167975, September 1, 1970.)

5. How should an State determine the number of furlough hours for alternative work schedule (AWS) technicians during a shutdown furlough? Can a technician reschedule a non-workday that occurred during the furlough?

Technicians are furloughed based on the number of hours they are scheduled to work on the days for which there is a shutdown furlough. Each State that has an AWS program should have a policy specifying how flexible and compressed work schedules must be established and when they may be changed. Normally, such schedules are established in advance of the pay period

involved. Under such a policy, an AWS non-workday scheduled to occur during a shutdown furlough should not be changed after the pay period begins.

D. Pay

- 1. Will “excepted” technicians be paid for performing work during a shutdown furlough? If so, when will excepted technicians receive such payments?**

States will incur obligations to pay for services performed by excepted technicians during a lapse in appropriations, and those technicians will be paid when Congress passes and the President signs a new appropriation or continuing resolution.

- 2. Will technicians who are furloughed get paid?**

Congress will determine whether furloughed technicians receive pay for the furlough period.

- 3. Will technicians receive a paycheck for hours worked prior to a lapse in appropriations?**

Under Office of Management and Budget (OMB) guidance issued in 1980 (below), technicians will receive this paycheck. Although the payroll for the last pay period before the lapse will be processed potentially during a period of furlough, the minimum number of payroll staff necessary for this process will be excepted from furlough for the minimum time required to issue the checks, including checks for the last pay period before the lapse. This guidance can be found in OMB’s August 28, 1980, Bulletin No. 80-14, Shutdown of State Operations Upon Failure by the Congress to Enact Appropriations, paragraph 3.b.(1) (Appropriations and funds). OMB has reviewed and concurs in this answer.

- 4. When an technician’s pay is insufficient to permit all deductions to be made because a shutdown furlough occurs in the middle of a pay period and the technician receives a partial paycheck, what is the order of withholding precedence?**

Payroll offices will follow the guidance on the order of precedence for applying deductions from the pay of its civilian technicians when gross pay is insufficient to cover all authorized deductions found at

<http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=1477>.

- 5. May an excepted technician be permitted to earn premium pay (e.g., Sunday premium pay, night pay) during the furlough period?**

Excepted technicians who meet the conditions for Sunday premium pay, night pay and other premium payments will be entitled to payment in accordance with applicable rules, subject to any relevant payment limitations. Premium pay may be earned but cannot be paid until Congress passes and the President signs a new appropriation or continuing resolution.

E. Performance Awards and Within-Grade Increases

- 1. If State performance management policies and practices require the payment of performance awards to technicians, can the payment be delayed until after the shutdown furlough?**

Yes. Neither law nor regulation requires States to pay performance awards granted under 5 U.S.C. chapters 43 and 45 and 5 CFR 451.104(a)(3). If State performance management policies and practices require the payment of performance awards, States may delay payment until after the furlough when funds are available.

2. May States deny or delay within-grade or step increases for General Schedule and Federal Wage System technicians during a shutdown furlough?

It depends on how long the shutdown furlough lasts. Within-grade and step increases for General Schedule (GS) and Federal Wage System technicians are awarded on the basis of length of service and individual performance. Such increases may not be denied or delayed solely because of lack of funds. However, extended periods of nonpay status (e.g., because of a furlough for lack of funds) may affect the timing of such increases. For example, a GS technician in steps 1, 2, or 3 of the grade who is furloughed an aggregate of more than 2 workweeks during the waiting period would have his or her within-grade increase delayed by at least a full pay period. (See 5 CFR 531.406(b).)

F. Leave and Other Time Off

1. May an technician not excepted from the furlough take previously approved paid time off (e.g., annual, sick, court, military leave, or leave for bone marrow/organ donor leave, or compensatory time off, including religious compensatory time off) during a shutdown furlough?

No. All paid time off during a shutdown furlough period must be canceled because the requirement to furlough supersedes leave and other paid time off rights. The Antideficiency Act (31 U.S.C. 1341 et seq.) does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid time off creates a debt to the Government that is not authorized by the Act. Therefore, States are instructed that during a shutdown furlough, all paid time off must be canceled.

2. May an excepted technician take previously approved paid time off or be granted new requests for paid time off during a shutdown furlough?

No. When an excepted technician is not working or not performing excepted activities in compliance with the Antideficiency Act, he or she cannot be in a pay status. Excepted technicians must be either performing excepted activities or furloughed during any absence from work. The furlough must be documented by a furlough notice. If an excepted technician refuses to report for work after being ordered to do so, he or she will be considered to be absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL.

3. May a technician work during the furlough period to accumulate religious compensatory time off hours for religious observances?

A. An technician who is not "excepted" may not work during the furlough period, even to accrue religious compensatory time. However, an excepted technician may work additional hours for religious purposes if the technician is performing excepted activities, though the technician may not use those hours until after the lapse in appropriations is over.

4. If an technician is scheduled to take approved unpaid leave during a shutdown furlough, should the State provide the technician with a furlough notice?

It depends. If the technician is not expected to work during the furlough period (e.g., a 1- year period of leave without pay to accompany a military spouse overseas), then States are not required to provide the technician with a furlough notice. If, however, the technician is scheduled to return from unpaid leave to Federal service during the furlough period, the technician should be provided with a furlough notice (effective on the date of scheduled return), unless the technician is expected to be at work performing an excepted activity.

5. If an technician is scheduled to take unpaid leave under the Family and Medical Leave Act (FMLA) during a shutdown furlough, should the State provide the technician with a furlough notice?

It depends. If the technician is not expected to work during the furlough period (e.g., an technician who has just given birth and has requested 12 weeks of unpaid leave (leave without pay (LWOP)) under the FMLA), the State is not required to provide the technician with a furlough notice. If, however, the technician is scheduled to return from LWOP to Federal service during the furlough period, the technician should be provided with a furlough notice (effective on the date of scheduled return), unless the technician is expected to be at work performing an excepted activity. A technician on LWOP under FMLA during a shutdown furlough may not later substitute paid time off for the days of LWOP.

6. Does LWOP under FMLA that is scheduled to be taken during a shutdown furlough period count toward the technician's 12-week FMLA leave entitlement?

No.

7. If a technician is scheduled to take paid leave or other paid time off under FMLA during a shutdown furlough, should the technician be furloughed?

Yes. A technician must be placed in furlough status during any paid time off scheduled to be taken during a lapse in appropriations. If an technician is scheduled to take paid time off under FMLA during a shutdown furlough (either continuously or intermittently), the paid time off must be canceled and the technician must be furloughed for any period during which paid time off was scheduled. Thus, any days of scheduled paid time off are documented as furlough days. Any previously scheduled days of unpaid leave under FMLA will continue to be documented as LWOP. No days associated with a shutdown furlough period will be counted against a technician's 12-week FMLA leave entitlement.

8. Are technicians who are not excepted from the furlough allowed to take paid leave or other paid time off during periods when other technicians are performing work necessary for an orderly suspension of State operations?

No. All paid leave or other paid time off is cancelled during a period when a lapse in appropriations is in effect. There is no authority to obligate funds for paid time off during a lapse in appropriations. Technicians who are not excepted from the furlough are allowed to perform minimal activities as necessary to execute an orderly suspension of State operations related to non-excepted activities. Being on paid leave is not an activity necessary to execute an

orderly suspension of State operations. States should determine on a case- by-case basis whether it is necessary to require technicians who had been scheduled to take paid time off to report to duty to perform orderly suspension activities.

9. May an excepted technician be permitted to earn compensatory time off and credit hours (under flexible work schedules) during the shutdown period?

A. Yes. With approval by the Adjutant General, excepted technicians may earn compensatory time off and/or credit hours subject to requirements found in 5 U.S.C. 5543 and 6120–6133; 5 CFR 550.114, 551.531, and part 610, subpart D; or other applicable authority. Each State is responsible for approving the number of hours an excepted technician can work related to the performance of excepted activities. Technicians will not be permitted to use earned compensatory time off or credit hours during the shutdown period.

10. If a technician has properly scheduled “use-or-lose” annual leave before the start of the third biweekly pay period prior to the end of the leave year, but is unable to use some or all of the scheduled leave because of the furlough, does the furlough constitute an “exigency of the public business” that would permit a State to restore the leave after the beginning of the new leave year?

Technicians in this situation should make every effort to reschedule “use-or-lose” annual leave for use before the end of the current leave year. However, if this is not possible due to a lapse in appropriations, the Adjutant General can use their discretionary authority to restore any lost annual leave by determining that the technician was prevented from using his or her leave because of an exigency of the public business—namely, the need to furlough technicians because of the lapse in appropriations.

11. If an technician has properly scheduled use of “restored annual leave” that is due to expire at the end of the leave year (because it is the end of the 2-year restoration period) but that leave is canceled and lost due to lapse of appropriations, may the employing State restore that leave again?

Unfortunately, no—unless Congress enacts legislation providing otherwise. There is nothing in existing law or regulation that allows restored annual leave to be restored a second time. In fact, the Comptroller General has determined that unused restored annual leave may not be restored after expiration of the 2-year period. (See B-188993, December 12, 1977.)

G. Holidays

1. Will technicians get paid for a holiday that occurs during a shutdown furlough?

No. A technician (including excepted technicians) who does not work on a holiday will not receive pay for a holiday that occurs during a shutdown furlough.

2. Can excepted technicians be required to perform work on a holiday that occurs during a shutdown furlough?

Yes. Each State is responsible for determining which excepted activities must be performed on a holiday in order to carry out functions related to such excepted activities. If an excepted

technician refuses to report for work on a holiday after being ordered to do so, he or she can be considered absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL.

3. What pay entitlements will accrue to an excepted technician who performs work on a holiday during a shutdown furlough?

The Federal Government will be obligated to pay an excepted technician who performs work on a holiday according to the normal rules governing pay for work on a holiday. For example, under 5 U.S.C. 5546(b), a covered technician would receive his or her rate of basic pay, plus holiday premium pay at a rate equal to the technician's rate of basic pay. In addition, if such a technician performs officially ordered or approved overtime work on a holiday (i.e., work in excess of his or her basic non-overtime work requirement for that day), the technician would receive overtime pay (or compensatory time off) for that work. Of course, an technician cannot receive payment for working on a holiday until an appropriations act or a continuing resolution is enacted.

H. Benefits

1. Will an technician continue to be covered under the Federal Technician Health Benefits (FEHB) program during a shutdown furlough if the State is unable to make its premium payments on time?

Yes, the technician's FEHB coverage will continue even if a State does not make the premium payments on time. Since the technician will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

2. What happens if an employee wants to terminate Federal Employee Health Benefits (FEHB) coverage while in a nonpay status in order to avoid the expense?

Unlike other types of non-pay status, technicians in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The technician will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

3. If an technician submitted a new application or a change to his/her health insurance plan (e.g. because of a Qualifying Life Event) and the paperwork was not processed by the HRO because of a shutdown furlough, how would the technician seek services or coverage?

New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the technician has been back in pay status for any part of the prior pay period.

4. Would a lapse in appropriations alter the effective date of an FEHB Open Season enrollment if an enrollment request was fully processed by the HRO and submitted to the health plan prior to the lapse?

No. The effective date would still be the first day of the first full pay period in January.

5. What happens if an individual makes an FEHB Open Season enrollment change but it did not get processed before the furlough?

The individual should continue to use the old health plan until he or she returns to pay status and the enrollment is processed to the new health plan.

6. If an enrollee required healthcare after making an FEHB Open Season enrollment change that was not processed before a furlough and received coverage under the old health plan, will the new health plan be responsible for the coverage received once the furlough is over?

Yes.

7. If a furlough delays processing of FEHB Open Season enrollment changes, will the enrollment be retroactive?

Yes. Per FEHB regulations, all Open Season enrollments and enrollment changes are effective on the first day of the first full pay period in January.

8. If an individual's health plan is terminating participation in the FEHB Program at the end of the current benefit year, and an Open Season enrollment change has not been processed, what should the individual do in January?

If the individual needs services urgently, he or she should incur the expenses and file a claim with the new plan once the enrollment change has been processed.

9. How will someone know whether his or her FEHB enrollment request was fully processed and sent to the new health plan?

If the individual receives an ID card, the enrollment in the new plan is effective. If an ID card is not received, the enrollment has not been processed.

10. How will someone know if an electronic FEHB Open Season enrollment change was fully processed?

If an ID card is received, the enrollment in the new plan is effective. If an ID card is not received, the enrollment has not yet been processed.

11. What happens to an individual not currently covered under the FEHB who elected to enroll during Open Season if the enrollment has not been processed and will not be processed until after the furlough? Does this individual still have coverage with the elected plan? If so, when?

Yes, such an individual would have coverage beginning on the first day of the first full pay period in January. Expenses incurred will be reimbursed by the plan once the enrollment has been processed. We suggest that such individuals ensure they use the plan's providers to get the maximum benefits. For fee-for-service plans, check the health plan's website for a list of network providers.

12. What happens to a technician's Federal Employees' Group Life Insurance (FEGLI) Program coverage if furloughed?

Coverage continues for 12 consecutive months in a nonpay status without cost to the technician or to the State. Neither the technician nor the State incurs a debt during this period of nonpay.

13. What happens to a technician's Flexible Spending Account (FSAFEDS) coverage if furloughed?

Payroll deductions will cease for any technician that does not receive pay. The technician remains enrolled in FSAFEDS, but eligible health care claims incurred during a non-pay status will not be reimbursed until the technician returns to a pay status and allotments are successfully restarted. The remaining allotments are recalculated over the remaining pay periods to match the participant's election amount.

Eligible dependent care expenses incurred during a non-pay status may be reimbursed up to whatever balance is in the technician's dependent care account—as long as the expense incurred during the non-pay status allows the technician (or spouse if married) to work, look for work or attend school full-time.

14. Will the effective date of my FSAFEDS enrollment be affected?

No.

15. What happens to a technician's Federal Long Term Care (FLTCIP) Program coverage if furloughed?

Payroll deductions will cease for any technician that does not receive pay. Coverage will continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

16. What happens to a technician's Federal Dental and Vision (FEDVIP) Program coverage if furloughed?

Payroll deductions will cease for any technician that does not receive pay. BENEFEDS will generate a bill to enrollees for premiums when no payment is received for two consecutive pay periods. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

17. Will the effective date of my FEDVIP Open Season enrollment be affected?

A. No.

18. What is the effect of a shutdown furlough on Thrift Savings Plan (TSP) contributions, investments, and loans?

States and technicians should refer to the TSP website or contact their State representative for

information. State representatives may contact the Federal Retirement Thrift Investment Board at (202) 942-1450 for additional information.

I. Technician Assistance

1. Are technicians entitled to unemployment compensation while on furlough?

It is possible that furloughed technicians may become eligible for unemployment compensation. State unemployment compensation requirements differ. Some States require a 1-week waiting period before an individual qualifies for payments. In general, the law of the State in which an technician's last official duty station in Federal civilian service was located will be the State law that determines eligibility for unemployment insurance benefits. (See the Department of Labor website "Unemployment Compensation for Federal Technicians" at <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>.) States or technicians should submit questions to the appropriate State (or District of Columbia) office. The Department of Labor's website provides links to individual State offices at <http://www.servicelocator.org/OWSLinks.asp>.

2. Can I take a TSP loan while I'm furloughed?

States and technicians should refer to the [TSP website](#) or contact their State representative for information. State representatives may contact the Federal Retirement Thrift Investment Board at (202) 942-1450 for additional information.

3. What resources are available if a Federal technician needs financial assistance during a government shutdown?

Some State technician assistance programs (EAP) include financial consultation services. In addition, technicians may want to contact their financial institution, credit union or learn about their options through the Thrift Savings Plan (www.tsp.gov).

4. How will Federal technicians access Employee Assistance Program (EAP) services in the event of a government shutdown?

EAP services can be helpful in providing confidential counseling and coaching with experienced, licensed counselors—including legal and financial consultation. Federal technicians are advised to contact their State's EAP office to determine whether services will be available in the event of a lapse in appropriations. Many Federal State EAPs are serviced by Federal Occupational Health (FOH), a division of HHS. Technicians who know their State uses FOH as a provider may contact their toll free EAP phone number (800) 222-0364 (TTY 888-262-7848) to find out how to access EAP services during a lapse in appropriations.

J. Service Credit for Various Purposes

1. Is furlough or leave without pay (LWOP) considered a break in service?

No, both mean the technician is in a nonpay, nonduty status for those days/hours. However, extended furlough or LWOP may affect the calculation of creditable service for certain

purposes.

2. To what extent does nonpay status affect Federal technician benefits and programs?

The effects of a nonpay status (which includes furlough, leave without pay, absence without leave, and suspension) on Federal technician benefits and programs vary based on current law and regulation. For additional information, see OPM's fact sheet on the "Effect of Extended Leave Without Pay (or Other Nonpay Status) on Federal Benefits and Programs"

at http://www.opm.gov/oqa/leave/HTML/LWOP_eff.asp.

K. Federal Technicians on Military Duty

1. Can technicians who are taking military leave under 5 U.S.C. 6323 for days covered by a furlough continue to do so during a shutdown furlough?

No. As with other types of paid leave, paid military leave must be canceled for days covered by the furlough.

For technicians on active military duty, their status as Absent-Uniformed Service (formerly Leave Without Pay-Uniformed Service (LWOP-US)) is unchanged by periods of intermittent annual or military leave, per the guidance in Q&A 9 of the Frequently Asked Questions on Military Leave, at <http://www.opm.gov/oqa/leave/HTML/MILQA.asp>.

2. Will technicians continue to receive a reservist differential payment (5 U.S.C. 5538) while on active duty when they are furloughed from their Federal civilian employment?

No. The reservist differential payments are intended to make up the difference between the technician's customary civil service compensation and his or her military pay, and they are made from the funds of the employing State appropriated for the payment of technicians' salaries. Since funds are not available for technicians' salaries during a furlough, no funds may be obligated towards any type of payment for reservist differential. However, if subsequent legislation is passed reimbursing technicians their civilian pay for the period of the furlough, it will be necessary for the State to calculate any reservist differential payments that may be owed.

3. Will there be an impact on a technician's General Schedule or Federal Wage System within-grade increase (WGI) waiting period due to a technician being in an Absent- Uniformed Service status during a shutdown furlough?

No. The furlough has no impact on a technician's General Schedule or Federal Wage System WGI waiting period if the technician is in an Absent-Uniformed Service status. An absence for the purpose of engaging in military service is creditable service in the computation of waiting periods for successive WGIs when the technician returns to a pay status through the exercise of a restoration right provided by law, Executive order, or regulation. See 5 CFR 531.406(c)(1)(i) and 5 CFR 532.417(c)(4).

L. Retirement

- 1. If a shutdown furlough occurs during the 3 years of service prior to retirement, what effect will time in a furlough status have on a technician's high-3 average pay?**

Generally there will be no effect on the high-3 average pay unless the furlough causes the technician to be in a nonpay status for more than 6 months during the calendar year.

- 2. Are the retirement rules concerning the effect of a shutdown furlough the same for technicians under the Civil Service Retirement System and the Federal Technicians Retirement System?**

Yes.

- 3. What will happen to technicians who would have retired during a shutdown furlough?**

For technicians who, on or before the requested retirement date, submitted some notice of their desire to retire, States should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement), and can be either mailed or personally submitted to the State. Any additional required paper work, such as the formal retirement application form, may be completed when the State reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an technician of the State.

- 4. If an technician is scheduled to retire before the end of the leave year with an annual leave balance of over the maximum leave ceiling (e.g., 240, 360, or 720 hours, as applicable) and the furlough prevents the technician's retirement from getting processed until January, does the technician lose his or her annual leave above the maximum leave ceiling?**

No. The technician's retirement would be retroactively applied to a date prior to the end of the leave year, and the technician would receive the full amount of accumulated and accrued annual leave in a lump-sum payment.

M. Payments upon Separation from Federal Service

- 1. If there is a shutdown furlough, how does this impact a separating technician's lump-sum payment for their unused annual leave?**

In the event of a shutdown furlough, any payments incurred by the State for an technician's lump-sum payment will be delayed until funds are available.

- 2. How are separated technicians' entitlements to severance pay affected by a shutdown furlough?**

Funds for severance pay are obligated on a day-to-day basis as the recipient accrues continuing entitlement to severance pay by not being reemployed by the Government of the United States.

(Severance pay is suspended or terminated when the individual is reemployed by the Federal Government.) Severance pay is paid at the same pay period intervals as if the recipient were still employed. Any severance payment (on a payroll payday) is linked to the corresponding pay period during which the recipient accrued continuing entitlement to severance pay. If the recipient is reemployed by the Federal Government during a pay period, he or she is entitled to a prorated severance payment covering the days in the period prior to reemployment (e.g., 2/5 of one week's pay if the recipient was reemployed on the third workday of the pay period). Thus, in the case of a shutdown furlough, accrued but unpaid severance pay represents an obligation to be paid from funds available before the lapse in appropriations occurred. Just as payroll checks for work performed prior to a lapse in appropriations can be processed as part of the orderly suspension of nonexcepted activities, severance pay checks covering days before the lapse may also be processed.

No funds may be authorized for severance payments for days during the lapse until an appropriation is enacted.

Additional information on severance pay (including eligibility criteria and payment formulas) can be found at http://www.opm.gov/oca/pay/HTML/severance_pay.asp.

N. Continuation of Pay

1. How is Continuation of Pay (COP) under the Federal Technicians' Compensation Act affected by a Government shutdown?

The Department of Labor's Office of Workers' Compensation Programs which administers the Federal Technicians' Compensation Act (FECA) advises that, in the event of a Government shutdown, a technician who is disabled due to his or her injury is to be maintained in COP status during the shutdown unless the State does not have monies available to pay the salary of that technician. If the State does not have monies to pay salary during the shutdown but the State's budget is subsequently restored in such a way as to allow for retroactive payment of salary during the shutdown period, the technician should receive COP for any period of disability that occurs within the shutdown. In the event a State is legally unable to pay COP to a technician because of a lapse in appropriations, the technician may file a claim for regular FECA wage loss compensation for that period.

O. Unemployment Compensation

1. Is a technician entitled to unemployment compensation while on furlough?

It depends. Rules for unemployment compensation eligibility differ State to State. It is possible that a furloughed technician may become eligible for unemployment compensation immediately in some locations; whereas other States require a one-week waiting period before qualifying for compensation. In general, the State's laws, relative to the location of the technician's last official duty station while in technician service, determine eligibility for unemployment insurance benefits. (See the Department of Labor website "Unemployment Compensation for Technicians (technicians)" at <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>). Before applying for unemployment compensation, the technician should contact the HRO Technician

Benefits Specialist for the required SF 8 form. The HRO Technician Benefits Specialist will provide employment information upon request from the Department of Labor Unemployment Compensation Office. The Department of Labor's website provides links to locations of individual State unemployment compensation offices at <http://www.servicelocator.org/OWSLinks.asp>.

2. Are Human Resources Offices required to provide furloughed Federal technicians with an SF-8, Notice to Federal Technician about Unemployment Insurance?

Federal States are required to provide technicians with an SF-8 if they will be in a nonduty status for seven or more consecutive days.

3. What address should the HR Office provide on the SF-8, Notice to Federal Technician about Unemployment Insurance? What is the Federal Identification Code (FIC)?

The address on the SF-8 should be the address for the Human Resources Office. The FIC is 422 for the Department of the Army and 424 for the Department of the Air Force.

4. Is an unemployment compensation claim based on the State where the technician lives or where they work?

Unemployment compensation claims are based on the State in which the work was performed.

5. Are technicians who are lower than a Grade 9, Step 5, exempt from paying back unemployment compensation benefits if they are later paid for the furlough period?

The decision on whether or not technicians would have to pay back unemployment compensation benefits would be decided by each State Employment Security States based on their unemployment compensation law. Overpayment requirements apply to all technicians for a particular State, regardless of their grade or salary.

6. Is information available as to what the States require before processing a claim for unemployment because of a furlough?

Yes. The list below gives Web sites or instructions for each State when filing an initial claim for unemployment; different procedures often apply when filing claims for additional benefits. You should also note that Kentucky has a Web site – at <http://www.oet.ky.gov/des/ui/Staterefguide.asp> - that lists State Web sites, plus telephone numbers, for about 40 States.

Alabama – <http://dir.alabama.gov/uc>

Alaska – http://www.labor.State.ak.us/esd_unemployment_insurance/biff-splash.htm

Arizona – <https://www.azdes.gov/landing.aspx?id=4211>

Arkansas - <http://www.arkansas.gov/esd/UI/index.htm>

California – <https://eapply4ui.edd.ca.gov/> Colorado –

<https://www.coworkforce.com/ucontinuedclaims/default.asp?ci=0&ps=0&er=0&li=e>

Connecticut – <http://www.ctdol.State.ct.us/progsupt/unemplt/M1A/LogInIntro.htm>

Delaware – <http://www.delawareworks.com/Unemployment/welcome.shtml>

District of Columbia – <https://does.dcnetworks.org/InitialClaims/>

Florida –

<http://www.floridajobs.org/job-seekers-community-services/reemployment-assistancecenter/file-a-claim>
 Georgia - <http://www.dol.State.ga.us/>
 Hawaii - <http://hawaii.gov/labor/ui>
 Idaho - <http://labor.idaho.gov/dnn/Default.aspx?alias=labor.idaho.gov/dnn/idl>
 Illinois - <http://www.ides.State.il.us/individual/certify/default.asp>
 Indiana - <http://www.in.gov/dwd/>
 Iowa - <http://www.iowaworkforce.org/ui/file1.htm#1>.
 Kansas - www.getkansasbenefits.gov
 Kentucky - <http://www.kewes.ky.gov/>
 Louisiana - <https://laors.laworks.net/laclaims/Web site/>
 Maine - <https://gateway.maine.gov/DOL/mics/BasePage.aspx>
 Maryland - electronic filing not permitted if technician worked for the Federal Government in the past 18 months. File by phone at 410-949-0022 in the Baltimore area, or 1-800-827-4839 outside the Baltimore area. Information is at <http://www.dlir.State.md.us/employment/unemployment.shtml>
 Massachusetts - initial claim by phone or in person only. File by phone at 1-877-626-6800 from Massachusetts, 617-626-6800 outside Massachusetts. Information is at <http://www.mass.gov/?pageID=dlwdconstituent&L=2&L0=Home&L1=Claimants&sid=Edwd>
 Michigan - <http://www.michigan.gov/uia/0,1607,7-118--77962--,00.html>
 Minnesota - <http://www.uimn.org/>
 Mississippi <http://mdes.ms.gov/unemployment-claims/>
 form must then be brought in person to a Mississippi Job Center
 Missouri - <http://www.labor.mo.gov/DES/Claims/>
 Montana - <https://app.mt.gov/ui4u/index>
 Nebraska - <https://uibenefits.nwd.ne.gov/BPSWeb/jsp/BPSClaimantWelcome.jsp>
 Nevada - http://www.ui.nvdetr.org/UI_Agreement.html
 New Hampshire - <http://www.nh.gov/nhes/>
 New Jersey - http://lwd.dol.State.nj.us/labor/ui/ui_index.html
 New Mexico - <http://www.dws.State.nm.us/>
 New York - https://ui.labor.State.ny.us/UBC/home.do?FF_LOCALE=1
 North Carolina - <https://www.ncesc.com/individual/webInitialClaims/applyBegin.asp>
 North Dakota - <https://secure.apps.State.nd.us/jsnd/uiiaclaims/login.htm>
 Ohio - <http://unemployment.ohio.gov/>
 Oklahoma - <https://unemployment.State.ok.us/instructions.asp?x=n>
 Oregon - <http://findit.emp.State.or.us/ocs>
 Pennsylvania - <https://www.paclaims.State.pa.us/UCEN/>
 Puerto Rico - <http://www.trabajo.pr.gov/>
 Rhode Island - <https://uiclaims.State.ri.us/RI-ICS/Intro/index.aspx?AC=yes>
 South Carolina - <http://dew.sc.gov/>
 South Dakota - <http://dlr.sd.gov/ui/default.aspx>
 Tennessee - <http://www.State.tn.us/labor-wfd/esdiv.html>
 Texas - <http://www.twc.State.tx.us/ui/uicclaim.html>
 Utah - <http://jobs.utah.gov/ui/WebInitialCubs/Welcome.aspx>
 Vermont - file by phone only, by calling 1-877-214-3330. Information is at <http://www.labor.vermont.gov/Unemployed/tabid/109/Default.aspx>
 Virginia - <http://www.vec.virginia.gov/vecportal/seeker/jslogin.cfm>
 Virgin Islands - file in person only
<http://www.vidol.gov/OP/Contact.htm>

Washington – <http://www.esd.wa.gov/uibenefits/index.php>
West Virginia – <http://www.wvuc.org/>
Wisconsin – <https://ucclaim-wi.org/InternetInitialClaims/InfoBasicRequirements.asp>
Wyoming - <https://doc.State.wy.us/InetClaims/>

P. Injury While on Furlough

1. Are technicians who are injured while on furlough or LWOP eligible to receive workers compensation?

No. Workers compensation is paid to technicians only if they are injured while performing their duties. Technicians on furlough or LWOP are not in a duty status for this purpose. An technician who is receiving workers' compensation payments will continue to receive workers' compensation payments during a furlough and will continue to be charged LWOP.

Q. Procedures

1. Should HROs process SF-50s, or equivalent, for furloughed technicians at the outset of the shutdown?

A. No. When the furlough begins, HROs should not prepare an SF-50, "Notification of Personnel Action" (or a List Form of Notice for a group of technicians who are to be furloughed on the same day or days each pay period). Further guidance regarding documentation will be communicated to States at the conclusion of the furlough.

2. In the event of a shutdown furlough, can an technician be furloughed without first receiving a written notice of decision to furlough?

Yes. While a technician must ultimately receive a written notice of decision to furlough, it is not required that such written notice be given prior to effecting the emergency furlough or in person. Advance written notice (including through email) is preferable, but when prior written notice is not feasible, then any reasonable notice (e.g., telephonic, oral, personal email, or by mail promptly after the furlough) is permissible.

3. What information should be included in the notice of decision of a shutdown furlough when no advance notice is issued?

The notice must specify the reason for the furlough and State that the usual 30 calendar days advance notice was not possible due to the emergency requiring curtailment of State operations.

See "Sample Shutdown Furlough Decision Notice Due to Lapse of Appropriations."

4. In addition to statutory and regulatory procedural requirements, what other forms of communication should a State consider when implementing a shutdown furlough?

A. Considering the uncertain and changing circumstances surrounding a shutdown furlough, States should make efforts to ensure that technicians are provided with up-to-date and accurate information. If time permits before a furlough starts, this may be done through effective union-management communication, technician briefings, periodic bulletins, and newsletters. Once a furlough begins, States can also consider using 800 numbers and emails to home email accounts.

5. How does the length of a shutdown furlough affect the procedures that are used to implement the furlough of technicians?

The length of a shutdown furlough does not affect the procedures that are used. Reference TPR 715. e.

NOTE: RIF furlough regulations are not applicable to emergency shutdown furloughs because the ultimate duration of an emergency shutdown furlough is unknown at the outset and is dependent entirely on Congressional action, rather than State action. The RIF furlough regulations, on the other hand, contemplate planned, foreseeable, money-saving furloughs that, at the outset, are planned to exceed 30 days.

6. What happens to new employees who are scheduled to report to work for the first time during a shutdown furlough?

By law, individuals do not become Federal technicians until they report for work and are sworn in. States should consider delaying the enter-on-duty date for new technicians who are scheduled during a shutdown furlough.

7. At the time of an appropriations lapse, an technician who is funded through a lapsed appropriation is on temporary duty assignment away from the technician's normal duty station. The State notifies the technician to return to the technician's normal duty station. Can the technician elect to delay the return? If the technicians decides to delay the return, and as a result the technician incurs additional travel costs, who is liable for those additional travel costs?

Technicians who are notified to return home should do so as soon as practicable. When a technician returns promptly, the travel expenses that the technician incurs in the return are properly-incurred obligations of the State (as part of the State's orderly-shutdown activities), and the State will reimburse these travel costs after appropriations are enacted and are available for that purpose. If, however, an technician elects not to return promptly and, as a result of this decision, the technician incurs additional travel expenses, those additional travel expenses are not obligations of the State, and will not be reimbursed (instead, the technician is personally liable for the additional travel expenses); while the technician will be personally liable for the additional travel expenses, the State will continue to incur the obligation for those travel costs that would have been incurred if the technician had returned promptly, and the State will reimburse such

“prompt return” travel costs after appropriations are enacted and are available for that purpose. Finally, in the case of those technicians who are notified by their State that they are to remain on travel, because the continuation of their travel is in direct support of an excepted State activity, their travel expenses are properly-incurred obligations of the State (as part of the State carrying out an excepted activity), and the State will reimburse the travel costs after appropriations are enacted and are available for that purpose.

8. What happens to current Federal technicians who are scheduled to transfer to a new State during a shutdown furlough?

States should consider delaying the enter-on-duty date for technicians who are scheduled to transfer to a new State during a shutdown furlough. Such technicians would remain on the rolls of their former State until the new transfer effective date.

9. If a Government shutdown occurs, how will furloughed technicians be informed when it is over?

Technicians should follow their State procedures, including any applicable collective bargaining agreements, which may include monitoring OPM’s website (www.opm.gov) and media outlets for notification that a continuing resolution or appropriation has been signed by the President.

10. When a Government shutdown ends, when are furloughed technicians expected to return work?

If a shutdown were to occur, guidance concerning when furloughed technicians should come back to work at the conclusion of the shutdown would have to be tailored to the specific situation. In the absence of such guidance, States should apply a rule of reason in requiring technicians to return to work as soon as possible, taking into account the disruption in the lives and routines of furloughed technicians that a shutdown causes.

R. Labor Management Relations Implications

1. When a lapse in appropriations requires a shutdown furlough, what is a State’s obligation to bargain?

The decision whether to furlough technicians and which activities are excepted from a furlough are management rights that are not subject to bargaining. See 5 U.S.C. §7106(a). However, when State determines that a shutdown furlough is necessary, States have a duty to notify their exclusive representatives and, upon request, to the extent possible conduct impact and implementation with the union, unless the matter of furloughs is already “covered by” a collective bargaining agreement.

In the event of unforeseeable circumstances, such as sudden emergencies requiring immediate curtailment of activities due to a Government shutdown, whatever bargaining that can occur prior to taking action should occur to the extent possible before furlough actions are necessary.

However, if agreement isn't reached in the time allowed, the State should tell the union what actions it will take and offer to continue bargaining on a post implementation basis.

2. What is the State's obligation in responding to a union request under 5 U.S.C. 7114 seeking the State's furlough plan and a list of excepted and nonexcepted technicians?

A State is required to provide data that is normally maintained, reasonably available and necessary to perform the representational duties of a union. A union requesting information must establish a particularized need for the information by articulating, with specificity, why it needs the requested information, including the uses to which the union will put the information and the connection between those uses and the union's representational responsibilities under the statute. The union must establish that the requested information is required in order for the union to adequately represent its members. A State denying a request for information must assert and establish any countervailing anti-disclosure interests. A State may not satisfy its burden by making conclusory or bare assertions; its burden extends beyond simply saying "no." With this in mind, States will have to evaluate the circumstances of their situation to determine whether they should provide the requested information.

3. Can union officials work on "official time" during a shutdown?

Furloughed technicians are prohibited from working on official time, because official time is a paid status, and States may not incur financial obligations during a lapse in appropriations. Official time is not permitted for excepted technicians because they are only permitted to work on activities that are authorized under the Antideficiency Act. Official time is used for Union representational activities, which do not fall within any of the Anti-Deficiency Act's exceptions.

4. Will union officials have access to their union offices if they are in furlough status and therefore not entitled to official time for representational activities?

Generally, access to facilities during a furlough may be restricted based on funding, security or other issues. Depending on State operations, a particular facility, or portions of a facility, may be fully or partially operational.

Access to a union office during a period of furlough should not be prevented solely on the basis that a union official seeking access is not in a duty status. Access for representational purposes would be subject to each facility's requirements at the time, including provisions in collective bargaining agreements. If furloughed union officials are allowed access, it would be solely for the purpose of performing voluntary representational functions (i.e., they could not be working on official time or in any other way incurring obligations that would require subsequent State payment).

SAMPLE NOTICE 1— Notice of Proposed Furlough Under 32 USC § 709(f)(3)

1. This memorandum notifies you that the **[State name]** National Guard proposes to furlough you no earlier than 30 days from receipt of this notice. This furlough is being proposed in accordance with Technician Personnel Regulation (TPR) 715, *Voluntary and Non-Disciplinary Actions*. This administrative furlough is necessitated by the extraordinary and serious budgetary challenges facing the Department of Defense (DoD) for the remainder of Fiscal Year (FY) 2013, the most serious of which is the sequester that began on March 1, 2013. The Budget Control Act of 2011, as amended by the American Taxpayer Relief Act of 2012, makes across-the-board reductions to budgetary resources for the Federal government. In addition, the DoD must and will protect wartime operations funding for our troops in harm's way. This inevitably means larger cuts in base-budget funding for the Operation and Maintenance (O&M) accounts. Thus, the DoD will need funding in other accounts that can be used to provide the warfighters with what they need to protect national security and fight the war. This furlough is proposed to help meet their need while avoiding a deficit of funds in FY 2013.
2. If other technicians in your competitive level (*i.e.*, generally, positions at the same grade level and classification series, the duties of which are generally interchangeable) are not being furloughed or are being furloughed for a different number of days/hours, it is because they (1) are currently in a non-pay status; (2) are on an assignment not otherwise causing an expenditure of funds to the State; or (3) are in a position whose duties have been determined to be of crucial importance to this State's military mission and responsibilities and cannot be curtailed. *[This paragraph may be changed only based upon approved Component management plan.]*
3. We plan to apply the following procedures and conditions related to the furlough: *[Items 1, 2, 3, and 4 of this section may need to be modified based on the results of collective bargaining]*
4. The furlough will be on discontinuous (intermittent) days, unless the needs of the State military mission require otherwise, and beginning **[date]** through approximately **[date]**. Full-time technicians will be furloughed no more than 14 workdays or 112 hours. If you are a part-time technician, your furlough time off will be prorated, based on your work schedule.
5. Due to the uncertain and potentially fluctuating amount of funding which may be available to this State, the number of hours per pay period required for the furlough may vary. Accordingly, if the decision is made to furlough, you will be advised in advance of each pay period of the number of furlough hours required to allow financial obligations of the DoD to be met. Generally, you will not be furloughed for more than 16 *[this number may change based on when the furlough is implemented]* hours for each pay period between **[date]** and **[date]**.
6. Based upon mission and workload considerations and subject to management approval, you may request a specific schedule for furlough.

7. Annual, sick, court, military leave, or leave without pay which has been approved for a day which is later designated as a furlough day will be recorded as a furlough and you will be placed in a non-pay status for the day. However, when you receive the notice of your furlough dates, you may request that the furlough time off be rescheduled, as provided in paragraph 3 above, if you wish to use leave as approved.
8. At this time, we do not reasonably anticipate the need for furlough beyond 14 workdays (112 hours). However, should additional furlough days/hours become necessary, technicians will be given another notice. We recognize the difficult personal financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the State funding level becomes available. If you have questions, contact **[contact name, phone number, and email address]**.
9. You will be allowed seven calendar days from receipt of this letter to respond in accordance with TPR 715. You may request review of your furlough action by submitting your objections to the Human Resource Officer (HRO). The Adjutant General (TAG) will take whatever action he/she deems appropriate to thoroughly review your objections along with management's need for the furlough. To review the supporting materials, please contact the appropriate individuals listed below: *[This paragraph may be modified as needed to fit Component requirements.]*

10. [Contact names, phone numbers, and email addresses]

11. Your written reply should be mailed to the HRO **[name and title]**, **[address]** or may be delivered to **[address/room number]**.
12. A final decision will be issued by TAG as soon as possible after the seven days allowed for your reply has elapsed.
13. No decision to furlough you has been made or will be made until full consideration is given to your reply.

Human Resource Officer

Date

I acknowledge receipt of this notice.

Technician's Signature

Date

SAMPLE NOTICE 2— Notice of Decision to Furlough Under 32 USC § 709(f)(3)

1. By written notice of **[date]**, you were notified of a proposal to furlough you pursuant to the procedures in TPR 715, *Voluntary and Non-Disciplinary Actions*.
2. I have determined that the reasons for the proposed furlough, as Stated in the notice of the proposal, remain valid. The procedures and conditions related to the furlough as proposed have been determined to be the most equitable means of implementing the furlough. Therefore, you will be required to be on a discontinuous furlough during the period beginning **[date]** through **[date]**.
3. In accordance with the procedures and conditions outlined in the notice of proposal dated **[insert date]**, you will be furloughed for no more than **[number]** hours in each of the pay periods or parts thereof, between **[date]** and **[date]**. The maximum furlough time for full-time technicians will be no more than 14 discontinuous workdays, for a maximum of 114 hours. For full-time technicians, this maximum is based on a regular work schedule of 80 hours per pay period. A part-time technician's number of hours required for furlough is prorated according to the specific work schedule.
4. Your supervisor will inform you of the amount of furlough time required prior to each pay period. Please contact your supervisor if you have any questions concerning the scheduling of your furlough days.
5. When you are on furlough, you will be in a non-pay, non-duty status. Also, during any furlough period, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace, and are prohibited from performing any work-related duties during that time.
6. In accordance with 32 U.S.C. § 709(f) (4), there is no right of appeal beyond the adjutant general.
7. We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the State funding level becomes available. If you have questions, contact **[contact name, phone number, and email address]**.

Adjutant General

Date

I acknowledge receipt of this decision.

Technician's Signature

Date

Notice of Decision to Furlough –no Reply Required

SAMPLE NOTICE 3— Notice of Decision to Furlough Under 32 USC § 709(f)(3)

1. By written notice of **[date]**, you were notified of a proposal to furlough you pursuant to the procedures in TPR 715, *Voluntary and Non-Disciplinary Actions*.
2. Your reply(ies) received in response to that proposal notice have been reviewed and carefully considered. I have determined that the reasons for the proposed furlough, as Stated in the notice of the proposal, remain valid. The procedures and conditions related to the furlough as proposed have been determined to be the most equitable means of implementing the furlough. Therefore, you will be required to be on a discontinuous furlough during the period beginning **[date]** through **[date]**.
3. In accordance with the procedures and conditions outlined in the notice of proposal dated **[insert date]**, you will be furloughed for no more than **[number]** hours in each of the pay periods or parts thereof, between **[date]** and **[date]**. The maximum furlough time for full-time technicians will be no more than 14 discontinuous workdays, for a maximum of 112 hours. For full-time technicians, this maximum is based on a regular work schedule of 80 hours per pay period. A part-time technician's number of hours required for furlough is prorated according to the specific work schedule.
4. Your supervisor will inform you of the amount of furlough time required prior to each pay period. Please contact your supervisor if you have any questions concerning the scheduling of your furlough days.
5. When you are on furlough, you will be in a non-pay, non-duty status. Also, during any furlough period, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace, and are prohibited from performing any work-related duties during that time.
6. In accordance with 32 U.S.C. § 709(f)(4), there is no right of appeal beyond the adjutant general.
7. We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the State funding level becomes available. If you have questions, contact **[contact name, phone number, and email address]**.

Adjutant General Date

I acknowledge receipt of this decision.

Technician's Signature Date

SAMPLE NOTICE 4— Notice of Decision to Modify Furlough Under 32 USC § 709(f)(3)

1. By written notice of **[date]**, you were notified of a proposal to furlough you pursuant to the procedures in TPR 715, *Voluntary and Non-Disciplinary Actions*.
2. Your reply(ies) received in response to that proposal notice have been reviewed and carefully considered. While I have determined that the reasons for the proposed furlough, as Stated in the notice of the proposal, remain valid, I have decided to mitigate your furlough as follows.
3. *[This paragraph may be modified to properly reflect relief granted.]* You will be required to be on a discontinuous furlough during the period beginning **[date]** through **[date]**. You will be furloughed for no more than **[number]** hours in each of the pay periods or parts thereof, between **[date]** and **[date]**. The maximum furlough time for full-time technicians will be no more than 14 discontinuous workdays, for a maximum of 112 hours. For full-time technicians, this maximum is based on a regular work schedule of 80 hours per pay period. A part-time technician's number of hours required for furlough is prorated according to the specific work schedule.
4. *[This paragraph may be modified to properly reflect relief granted.]* Your supervisor will inform you of the amount of furlough time required prior to each pay period. Please contact your supervisor if you have any questions concerning the scheduling of your furlough days.
5. When you are on furlough, you will be in a non-pay, non-duty status. Also, during any furlough period, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace, and are prohibited from performing any work-related duties during that time.
6. In accordance with 32 U.S.C. § 709(f)(4), there is no right of appeal beyond the adjutant general.
7. We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the State funding level becomes available. If you have questions, contact **[contact name, phone number, and email address]**.

Adjutant General Date

I acknowledge receipt of this decision.

Technician's Signature Date

**SAMPLE NOTICE 5— NOTIFICATION TO UNION OFFICIAL OF PLANNED
TECHNICIAN ADMINISTRATIVE FURLOUGH**

[Note: This is the advance written notice required by collective bargaining agreements, when the State is planning an administrative furlough in order to absorb reductions in funding over a period of time. This sample has been written for the scenario where the State chooses to furlough on discontinuous days. States who choose to furlough on a continuous-day basis should amend the sample accordingly.]

1. Under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011, across-the-board reductions are scheduled to take place March 1, 2013, unless legislation is enacted that avoids such reductions. If this happens, sequestration will reduce each State's budgetary resources in non-exempt accounts for the remainder of the fiscal year (which runs through September 30, 2013).
2. If sequestration occurs, the Department of Defense and National Guard Bureau have directed the execution of technician furloughs not to exceed 14 discontinuous days. A furlough is the placing of a technician in a temporary non-duty, non-pay status because of lack of work, reduction/ lack of funds, or other non-disciplinary reasons.
3. This letter serves as management's advance notice of a possible furlough affecting bargaining unit technicians in the [State] National Guard. Our Human Resources Office personnel are reviewing furlough procedures outlined in our collective bargaining agreement(s). We invite a cooperative approach from your officers to help us all get through these challenging times.
4. Questions or concerns regarding this correspondence may be addressed to [name of labor relations specialist], [State] Human Resources Office, [POC email and phone number].

Sincerely,

Signature Block

SAMPLE SHUTDOWN FURLOUGH DECISION NOTICE DUW TO LAPSE OF APPROPRIATIONS

This notice would be used for a "shutdown" furlough, where the State no longer has the necessary funds to operate and must curtail those activities not excepted by OMB standards. In such instances there is no advance written notice proposing the action. See 5 CFR 752.404(d) and 359.806(a)).

NOTICE

SUBJECT: Notice of Decision to Furlough due to a Lapse in Appropriation

In the absence of either a Fiscal Year (FY) 14 appropriation, or a continuing resolution for the Department of Defense, no further financial obligations may be incurred by [state NG], except for those related to the orderly suspension of [state NG] operations or performance of excepted activities as defined by National Guard Bureau guidance. This action is being taken because of a sudden emergency requiring curtailment of the state's activities; therefore, no advance notification is possible. You are hereby notified of a furlough pursuant to the authority in Technician Personnel Regulation 715, *Voluntary and Non-Disciplinary Actions*.

The Adjutant General has determined that your services are not required to perform minimal activities as necessary to execute an orderly suspension of agency operations and you are not engaged in one of the excepted functions. Therefore, you are being placed in a furlough status effective [enter date]. This furlough is not expected to exceed 30 days. This furlough notice expires on [enter date]. You should monitor public broadcasts and the Internet. When a continuing resolution or an FY [state year] appropriation for [agency name] is approved, you will be expected to return to work on your next regular duty day.

When you are on furlough, you will be in a non-pay, non-duty status. Also, during any furlough period, you will not be permitted to serve as an unpaid volunteer, must remain away from your workplace, and are prohibited from performing any work-related duties during that time.

In accordance with 32 U.S.C. §709(f)(4), there is no right of appeal beyond the adjutant general.

We recognize the difficult financial implications of any furlough, no matter how limited its length. We will make every effort to keep you informed as additional information regarding the agency funding level becomes available. If you have questions, contact [contact name, phone number, and email address].

Adjutant General

Date

I acknowledge receipt of this decision.

Technician's Signature

Date



“Supporting those who are Always Ready...Always There”